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23 **UNITED STATES DISTRICT COURT**  
24 **NORTHERN DISTRICT OF CALIFORNIA**  
25 **SAN FRANCISCO DIVISION**

26 JUNIPER NETWORKS, INC. and  
27 APSTRA, INC.,

28 Plaintiff,

v.

SWARM TECHNOLOGY LLC,

Defendant.

Case No.: 3:20-CV-03137-JD

**CORRECTED<sup>1</sup> NOTICE OF  
RELATED ADMINISTRATIVE  
PROCEEDING**

<sup>1</sup> This Corrected Notice replaces Docket No. 52 filed earlier today, which inadvertently identified Fisch & Sigler (Attorneys for Plaintiff) as the filing party. This Corrected Notice properly identifies Beus Gilbert McGroder (Attorneys for Defendant) as the filing party.

1 By and through this Notice, Defendant Swarm Technology LLC (“Swarm”) hereby  
 2 advises and informs the Court of an administrative matter related to the instant case, namely  
 3 *Inter Partes* Review No. IPR2021-01445 (“IPR”). The Petition (“Petition”) seeking the IPR  
 4 was filed by Juniper Networks, Inc. (“Juniper”) against Swarm with the Patent Trial and  
 5 Appeal Board (“PTAB”) at the U.S. Patent & Trademark Office (“USPTO”) on 16 August  
 6 2021. On 16 September 2021 Swarm filed its Mandatory Notices in the PTAB in connection  
 7 with the IPR. Copies of the Petition and Swarm’s Mandatory Notices are attached for the  
 8 Court’s convenience as Exhibits 1 and 2 hereto.

9  
 10 In addition to fulfilling its perfunctory role, this this Notice is relevant because the  
 11 determination of the PTAB in the IPR could influence the outcome of the instant case. Swarm  
 12 provides this notice as the parties’ general duty of candor and good faith “encompasses an  
 13 attorney’s duty to advise a district court of any development that may affect the outcome of  
 14 the litigation.”<sup>2</sup> The IPR process was implemented “to establish a more efficient and  
 15 streamlined patent system that will improve patent quality and limit unnecessary and  
 16 counterproductive litigation costs.”<sup>3</sup> As outlined in 35 U.S.C. § 315(e)(2), a final decision in  
 17 an IPR may have estoppel effect on both the petitioner in the IPR, as well as real parties in  
 18 interest.<sup>4</sup> Thus, Juniper and Apstra may be estopped from raising in this Court any invalidity  
 19 defenses which it “raised or reasonably could have raised during the IPR.”<sup>5</sup>

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22 <sup>2</sup> *Virginia Innovation Sciences, Inc. v. Samsung Electronics Co.*, 938F. Supp. 2d 713, 754 (E.D. Vir.  
 23 2014).- The *Samsung* court held that “[t]he parties should have notified this Court of the IPR petition  
 24 as soon as it was filed, and failure to do so appears, at least to the undersigned Judge, to have been a  
 glaring omission.” *Id.* at 760.

25 <sup>3</sup> Changes to Implement Inter Partes Review Proceedings, Post-Grant Review Proceedings, and  
 26 Transitional Program for Covered Business Method Patents, 77 Fed. Reg. 48680, 48680 (Aug. 14,  
 2012)2.

27 <sup>4</sup> *See*, 35 U.S.C. § 315(e)(2).

28 <sup>5</sup> *Id.*

1 Dated: September 16, 2021

2 Respectfully submitted,

3 By /s/Michael Kelly

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5 Leo R. Beus

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7 **STEYER LOWENTHAL BOODROOKAS**

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11 *Attorneys for Defendant Swarm Technology LLC*

12 **CERTIFICATE OF SERVICE**

13 I hereby certify that on September 16, 2021, I caused the foregoing document to be  
14 served via the Court's CM/ECF system on all counsel of record per Local Rule CV-5(5).

15 /s/Suneel Jain

16 Suneel Jain